

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MATTHEW BUHL, KERIC MCKENNA,
JUSTIN COWGILL, JANE DOE, and
JOHN DOE,

Plaintiffs,

v.

SEATTLE POLICE OFFICERS JOHN
DOES #1 THROUGH 4, and
THE CITY OF SEATTLE,

Defendants.

NO. C09-0598-JCC

ANSWER TO PLAINTIFF'S CIVIL
RIGHTS COMPLAINT UNDER
42 U.S.C. § 1983, AFFIRMATIVE
DEFENSES, AND JURY DEMAND

COMES NOW The City of Seattle, and for answer to the plaintiffs' civil rights complaint under 42 U.S.C. § 1983, does hereby admit, deny, and allege as follows:

1. Only plaintiff Matthew Buhl has signed the *pro se* civil rights complaint under 42 U.S.C. § 1983, and neither Keric McKenna nor Justin Cowgill have properly moved to join, therefore defendant The City of Seattle denies the allegations concerning "parties to this complaint." Likewise, The City of Seattle denies that John Does are proper party defendants, or that any individuals have been named, properly joined or properly served.

ANSWER TO PLAINTIFF'S CIVIL RIGHTS COMPLAINT
UNDER 42 U.S.C. § 1983 - 1

C09-0598-JCC
3019-030834 500422

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2. For answer to the "Statement of Claim," defendant The City of Seattle admits that on May 1, 2006, a large demonstration/parade occurred in the downtown area of The City of Seattle, and that police officers of the City of Seattle Police Department, including officers of the Seattle Police Department bicycle patrol, were assigned to conduct crowd control in an attempt to maintain peace along a planned immigration protest march and parade route, which consisted of tens of thousands of marchers. Defendant The City of Seattle further admits that, at approximately 1718 hours, Seattle Police Department Dispatch broadcast a 9-1-1 call concerning a group of people near or in front of the office building at 1001 Fourth Avenue who appeared to be armed, and who were not part of the march/protest. Defendant The City of Seattle further admits that members of the Seattle Police Department bicycle unit made contact with a group of four white males and one white female who met the description of the 9-1-1 call, and were subsequently identified by the 9-1-1 caller. It was determined that one member of the group was wearing a bulletproof vest, and that three members of the group were armed with handguns. Defendant The City of Seattle further admits that at the time contact was made, tens of thousands of marchers were passing by, the situation was loud, raucous, busy and confusing; and that for the safety of all concerned, the five members of the detained group were removed from the area to a safe area away from the protest march, for their own safety as well as the safety of the officers. Subsequently, a can of mace and a switchblade knife were recovered.

Because of the need to investigate the five concerning the weapons and firearms recovered, the group was detained and removed to the West Precinct of the Seattle Police Department for purposes of conducting and furthering an investigation, including

1 the legality of the concealed weapons. After an investigation was completed, all
2 members of the group were released without charges being filed.

3 Except as admitted above, any and all other allegations contained in the
4 "Statement of Claim" are hereby denied.

5 FOR FURTHER ANSWER AND BY WAY OF AFFIRMATIVE DEFENSES,
6 defendant The City of Seattle alleges as follows:

7 1. John Doe defendants are not recognized, and therefore this Court has no
8 jurisdiction over any John Doe defendants.

9 2. The Court lacks subject matter jurisdiction over any individually-identified
10 and/or named defendants.

11 3. There has been a lack of service and insufficiency of service, and
12 therefore the Court lacks jurisdiction.

13 4. Plaintiffs' complaint fails to state a cause of action, in whole or in part,
14 upon which relief can be granted.

15 5. Plaintiffs' complaint fails to state a cause of action under 42 U.S.C. § 1983
16 against The City of Seattle, and therefore the complaint must be dismissed.

17 6. Plaintiffs have failed to effectuate proper service consistent with Rule 4(m)
18 of the Federal Rules of Civil Procedure, and have likewise failed to comply with this
19 Court's Order of December 15, 2009 (Dkt. #17).

20 7. Officers of the Seattle Police Department, including those whom plaintiffs
21 seem to be trying to improperly join in this action, were at all times acting within the
22 course and scope of their employment, in good faith, in accordance with the law,
23 reasonably, and are entitled to qualified immunity.

ANSWER TO PLAINTIFF'S CIVIL RIGHTS COMPLAINT
UNDER 42 U.S.C. § 1983 - 3

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1 DATED this 24th day of February 2010.

2 STAFFORD FREY COOPER

3
4 By: /s/ Stephen P. Larson via ECF
5 Stephen P. Larson, WSBA #4959
6 Attorneys for Defendant The City of Seattle
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ANSWER TO PLAINTIFF'S CIVIL RIGHTS COMPLAINT
UNDER 42 U.S.C. § 1983 - 5

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Certificate of Service

I certify that on the date noted below I electronically filed this document entitled ANSWER TO PLAINTIFF'S CIVIL RIGHTS COMPLAINT UNDER 42 U.S.C. § 1983, AFFIRMATIVE DEFENSES, AND JURY DEMAND with the Clerk of the Court and I certify that I have caused to be served in the manner noted below a copy of the above-listed document to the following non CM/ECF participants:

Matthew Buhl
5307 Fourth Avenue South, Unit 223
Seattle, WA 98104

Keric S. McKenna
3516 NE 75th Street, Unit 2
Seattle, WA 98115

Justin Cowgill
4459 Brygger Drive West
Seattle, WA 98199

☒ Via First Class Mail

DATED this 24th day of February, 2010, at Seattle, Washington.

/s/ Stephen P. Larson via ECF

ANSWER TO PLAINTIFF'S CIVIL RIGHTS COMPLAINT
UNDER 42 U.S.C. § 1983 - 6

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